

PLAINTIFFS' EXHIBIT 8



NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE
Thomas A. Farley, MD, MPH
Commissioner

November 09, 2012

OWNER OR MANAGING AGENT

MARK KIMPSON
19 BREVOORT PLACE
BROOKLYN, NY 11216

RE: Order No.:
LASU No:
Address: 490 MACDONOUGH STREET
BROOKLYN, NY 11233
Apt. No:
Floor:

Dear Building Owner or Managing Agent:

New York City Department of Health and Mental Hygiene Lead Poisoning Prevention Program Field Support Unit (FSU) records indicate that you have either failed to comply with the above order issued pursuant to New York City Health Code Section 173.13, 173.14 or 3.09 or have not retained a third party inspector to conduct a visual inspection and surface dust testing at the completion of work that has disturbed lead based paint. All dust samples must be tested by a New York State Department of Health approved (ELAP and NLLAP certified) environmental laboratory. Our records indicate the following:

- ☒ To date, the Department has not received surface dust wipe sample results
- ☐ The Department has reviewed the results you submitted and has determined that:
 - ☐ Additional samples must be taken.
 - ☐ Samples were not collected at the required locations.
 - ☐ Levels exceeded the levels required for clearance.
 - ☐ The laboratory is not ELAP/NLLAP certified for analyzing dust wipe samples.



LEAD POISONING PREVENTION PROGRAM

253 Broadway, 11th Floor, CN 58, New York, New York 10007, (212) 676-6379, Fax (212) 676-6188

Please be advised that you must conduct post abatement clearance surface dust wipe sampling and analysis by an ELAP and NLLAP certified laboratory and/or repeat final clean up, inspection and dust wipe sampling for the above referenced premises.

You must submit results of the surface dust wipe sampling and testing by hand delivery or fax to:

New York City Department of Health and Mental Hygiene
Lead Poisoning Prevention Program
Field Support Unit
253 Broadway 11th Floor, CN 58
New York, NY 10007
Fax: (212) 676-6188

If you have any questions, or believe that you have complied with the applicable Health Code provisions, please telephone the FSU staff at (212) 676-6379.

Yours truly,

A handwritten signature in dark ink, appearing to read "Deborah Nagin". The signature is fluid and cursive, with the first name "Deborah" and last name "Nagin" clearly distinguishable.

Deborah Nagin, Director

WARNING

**FAILURE TO COMPLY WITH AN ORDER OF THE COMMISSIONER IS A VIOLATION OF
THE NEW YORK CITY CODE AND A MISDEMEANOR, FOR WHICH YOU MAY BE
SUBJECT TO CIVIL AND CRIMINAL PENALTIES INCLUDING FINES AND FORFEITURES.**

DEPOSITION TRANSCRIPT PAGES

DEFENDANT MARK KIMPSON - JULY 23, 2014

PLAINTIFF NIKI HERNANDEZ-ADAMS – JUNE 25, 2014

PLAINTIFF NIKI HERNANDEZ-ADAMS – OCTOBER 1, 2014

JOSHUA MENDEZ - JUNE 25, 2014

JOSHUA MENDEZ – OCTOBER 1, 2014

Defendant Mark Kimpson-

The Following Pages are from the
Deposition Transcript taken on July 23, 2014.

1 Mark Kimpson

6

2 A Okay.

3 Q Where were you born?

4 A In New York.

5 Q I'm sorry?

6 A In New York.

7 Q Where in New York?

8 A Brooklyn. Jewish Women's -- Brooklyn
9 Women's Hospital.

10 Q What is your date of birth?

11 A 8-14-62.

12 Q Your Social Security number?

13 MR. STEWART: He'll give it to you off
14 the record.

15 Okay, give the last four numbers.

16 A 7630.

17 MR. FRANKEL: We'll make a note that
18 we'll be asking for his full Social Security
19 number.

20 Q Mr. Kimpson, do you currently own any
21 buildings anyplace in New York City?

22 A Yes.

23 Q Where are they?

24 Let's take it one at a time.

25 A Well, I own 490 Macdonough Street.

1 Mark Kimpson 9

2 A No.

3 Q At the time that you purchased 490
4 Macdonough, was the building vacant?

5 A Yes.

6 Q Was it your intention to turn it into a
7 residential building, rent it out?

8 A Yes.

9 Q There were three apartment units when
10 you purchased it as well?

11 A Yes.

12 Q One was a basement apartment?

13 A Yes, sir.

14 Q Next one would be considered the first
15 floor, or the second one?

16 A I don't know.

17 Q Doesn't matter?

18 A No.

19 Q And one above that?

20 A Yes.

21 Q So there's three, one on top of the
22 other?

23 A Yes.

24 Q What was the condition of the building
25 when you purchased it?

1 Mark Kimpson 10

2 A It was in bad condition.

3 Q When you say bad condition, is it fair
4 to say it was not habitable, people couldn't move
5 in and live in the condition it was in?

6 A Yes.

7 Q What things did you do to fix up the
8 building before you could rent it?

9 A I had each apartment re-Sheetrocked,
10 that's five-eighths Sheetrock all around; I had
11 wood floors installed; I had the Sheetrock
12 painted, primed with two coats of paint, one coat
13 of prime.

14 Q Anything else? Did you have the
15 electric, the plumbing --

16 A Yeah, electric.

17 Q Did you rewire the whole building?

18 A Rewired the building.

19 Q How about in the basement, boiler, hot
20 water heater?

21 A Hot water heater.

22 Q Did you repair all three apartments at
23 the same time?

24 A No.

25 Q One at a time?

Mark Kimpson

11

1

2 A Yes.

3 Q Which one was first?

4 A The top floor.

5 Q How many rooms does that apartment
6 have?

7 A When you say rooms, counting
8 everything?

9 Q Yes.

10 A Living room, bathroom, kitchen --
11 Five.

12 MR. STEWART: Including the bathroom?

13 THE WITNESS: Including the bathroom
14 and the kitchen.

15 Q Did you do much of the work yourself or
16 did you have outsiders do the work?

17 A I had outsiders do the work.

18 Q Did you do any work on the upstairs
19 apartment?

20 A No.

21 Q Was it a licensed contractor?

22 A I don't know if he had a license.

23 Q Do you know whether they had a license
24 or not?

25 A No.

1

Mark Kimpson

12

2

Q Was the contractor or the person who
3 did the work a friend of yours or someone you knew
4 before?

5

A No, it was just associate, someone that
6 recommended somebody that did work.

7

Q Had he ever done any other work for you
8 in any other building?

9

A No.

10

Q What's his name?

11

A Randy.

12

Q Does he have a company name?

13

A Not that I know of.

14

Q Did you pay him in cash or by check?

15

A Cash.

16

Q Was that for everything in each
17 apartment?

18

A Yes.

19

Q Did he give you invoices or paid bills
20 for each time you paid him cash?

21

A No.

22

Q Do you have any invoices or paid bills
23 for the third floor apartment?

24

A No.

25

Q How long did it take for him to

1

Mark Kimpson

13

2 complete the work on the third floor?

3 A I don't recall exactly.

4 Q Couple of months, couple of weeks?

5 A I don't recall. A month maybe.

6 Q After he finished the third floor, did
7 he start on the second floor, moving down?

8 A Yes.

9 Q When he was doing the third floor,
10 before he started on the second floor, was the
11 Sheetrock put up for every wall in the apartment
12 or were some of the walls left the way they were?

13 A What do you mean on the second floor?

14 Q Starting on the third floor, did he
15 have to Sheetrock every wall throughout the
16 apartment or was some of it in good enough shape
17 to leave the way they were?

18 A No, everything got Sheetrocked.
19 Everything. It was five-eighths Sheetrock. The
20 fireproof, everything. So everything five-eighths
21 Sheetrocked all the way around, primed, paint it
22 two coats of paint. New wood floors went down.

23 Q Was Sheetrock put over Sheetrock that
24 was already in existence?

25 A I don't know.

1 Mark Kimpson 14

2 Q Were you there when the work was being
3 done?

4 A Not all the time.

5 Q You were there from time to time?

6 A Yes.

7 Q How often would you go and observe the
8 work?

9 A Three times a week.

10 Q When you were there, did you observe
11 the Sheetrock being put up on the walls?

12 A Yes.

13 Q You can't tell us whether or not
14 certain walls were left behind the Sheetrock?

15 MR. STEWART: Object to the form.

16 A The way I -- what I seen, it was no
17 Sheetrock behind it.

18 Q There was nothing behind the wall?

19 A No. All that stuff got demo'd.

20 Q How about the support beams and support
21 walls?

22 A No, the support beams and the ceiling
23 stayed.

24 Q When you say the ceiling stayed, the
25 original ceiling that had been there?

1

Mark Kimpson

15

2

A No, the beams.

3

Q The beams in the ceiling?

4

A Yeah.

5

Q And some of the beams in the walls?

6

A Yeah, some of the beams.

7

Q Did Randy make the decision as to which

8

ones to remove, what to change, how to do the job,

9

or did you tell him how to do it?

10

A He pretty much made decisions.

11

Q Now, the way you described the third

12

floor, after the third floor was completed, was

13

the second floor done pretty much in the same way?

14

A What do you mean the same way?

15

Q Painting, new wood floors.

16

A Yes.

17

Q Everything was completely redone?

18

A Yes.

19

Q With regard to the kitchen and

20

bathroom, let's start on the third floor, were

21

they completely renovated, the kitchen and

22

bathroom?

23

A Yes.

24

Q Were new sinks and commodes installed?

25

A New cabinets, new sinks, marble floors.

1

Mark Kimpson

16

2

Q Did you put things in like a

3

refrigerator?

4

A Yes.

5

Q That was new as well?

6

A Yes.

7

Q Randy did the plumbing and the

8

electrical as well?

9

A Yes.

10

Q You don't know if he has any licenses

11

to do either of those, do you?

12

A No.

13

Q Do you have an address for Randy?

14

A No.

15

Q If you needed to find him today, you

16

don't know where he --

17

A I can try to call him.

18

MR. FRANKEL: Leave space in the record

19

for Randy's full name, address and phone

20

number, if you can get it.

21

(INSERT)

22

23

Q Do you know about how long it took to

24

complete the second floor?

25

A About a month.

1 Mark Kimpson 19

2 A Could be. I don't recall exact no
3 more.

4 Q How about Donstan, how much did you pay
5 him?

6 A Maybe two hundred dollars.

7 Q Two hundred dollars?

8 A Yeah.

9 Q Did your father also give you money to
10 have the building repaired to pay Randy?

11 A No, no.

12 Q That was your own money?

13 A Yes.

14 Q This building you purchased in 2011.
15 Prior to that time had you ever owned or been
16 considered the landlord of any other buildings?

17 A Yes.

18 Q When did you first become a landlord?

19 A I think in '89.

20 Q What building was that?

21 A On Kingston Avenue.

22 Q Do you have the address?

23 A I don't recall the address.

24 Q Pardon?

25 A I don't recall the address.

1

Mark Kimpson

20

2

Q What kind of building was that?

3

A Two-family building.

4

Q Was it a house?

5

A Yes.

6

Q Did you live in the house?

7

A No, sir.

8

Q For how long did you own that property?

9

A Maybe three years.

10

Q You sold it sometime later?

11

A Yes.

12

Q At the time you had the Kingston Avenue

13

property, did you purchase any other properties?

14

A Yes.

15

Q Where?

16

A Willoughby, 458 Willoughby.

17

Q What kind of building was that?

18

A Two-family.

19

Q What year was that?

20

A I don't recall.

21

Q Approximately?

22

A I don't know.

23

Q How long after you bought Kingston, a

24

year or two, three?

25

A No. Years after that.

1 Mark Kimpson 32

2 Willoughby building was; more than twenty years,
3 more than thirty years?

4 A Yeah, all of the buildings are old.
5 Only one wasn't old was Hendricks, 'cause that was
6 a new building.

7 Q When you say new, in the last ten years
8 it was built?

9 A Yes.

10 Q And the rest were fifty, sixty years
11 old?

12 MR. STEWART: Objection to form.

13 A Yes.

14 Q Jefferson also?

15 A Yes.

16 Q Other than that and other than
17 Macdonough, what other buildings have you owned,
18 or homes?

19 A 839 Lafayette.

20 Q Do you know when you bought that?

21 A I don't recall the exact date.

22 Q More than ten years ago, less than ten
23 years ago?

24 A More than ten years.

25 Q What kind of structure was that?

1

Mark Kimpson

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2 A Yes.

3 Q Floors removed?

4 A Yes.

5 Q At that time did you have any
6 discussion with that person about lead paint
7 anywhere in the premises?

8 A No.

9 Q Were you aware of whether there might
10 be lead paint in the premises?

11 A No.

12 Q At the time that you purchased the
13 building on Jefferson, did you sign all of the
14 papers for the purchase as opposed to your wife or
15 someone else?

16 A I signed.

17 Q At that time do you remember receiving
18 a lead paint disclosure statement?

19 A No, I don't recall.

20 Q Have you ever heard of such a thing?

21 A Yes.

22 Q When did you first learn about that?

23 A The first time I signed a lead paint
24 disclosure was when we signed the lease with
25 Mendez and the broker had a lead lease -- a lead

1

Mark Kimpson

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2 form.

3 Q At the time that the renovation was
4 done, before that had you had anyone come in to
5 test to see if there was lead in the premises?

6 A Where?

7 MR. STEWART: What premises?

8 Q At Macdonough, 490 Macdonough.

9 A No.

10 Q So you didn't know at the time that the
11 demolition was done whether there was lead paint
12 on the walls or inside the walls or in any part of
13 490 Macdonough?

14 MR. STEWART: Objection to form.

15 A No, sir.

16 Q Who gave you the form for the lead
17 paint disclosure when the Mendez's were moving in?

18 A The broker.

19 Q Did you ask the broker what that was
20 for?

21 A Yes.

22 Q Did the broker explain to you that you
23 have to indicate that there is no lead in the
24 premises?

25 A She said I had to indicate whether I

1

Mark Kimpson

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2 tenants to sign?

3 A What forms?

4 Q Each time you had a tenant at
5 Willoughby, for example.

6 A I didn't have any forms.

7 Q You didn't have tenants sign leases
8 and --

9 A No.

10 Q -- just came off the street?

11 A They didn't have leases.

12 Q They didn't have leases?

13 A No.

14 Q And they didn't sign anything?

15 A No.

16 Q And you didn't sign anything?

17 A No.

18 Q That was all cash?

19 A Yes.

20 Q And you declared that cash?

21 A For my taxes, yes.

22 Q How did you keep a record of that if
23 there were no checks?

24 A Well, you know how much you paid a
25 month and you times it by twelve.

1 Mark Kimpson 67

2 lead paint disclosure form, you just signed it?

3 MR. STEWART: Objection to form.

4 A Yes.

5 (Whereupon, a short break was taken.)

6 Q I ask you if you would take a look at
7 what's been marked as Plaintiff's Exhibit 1 for
8 identification.

9 Do you recognize that document?

10 A Yes, sir.

11 Q Have you seen it before?

12 A Yes.

13 Q What is that?

14 A This is the lead disclosure form.

15 Q Was that signed when the lease was
16 signed by the Mendez family?

17 A Yes, they signed it.

18 Q And you signed it as well?

19 A I initial it here.

20 Q You initialed it?

21 A Right.

22 Q Did you read it before you initialed
23 it?

24 A No, the attorney -- I mean, the broker
25 asked me was any lead here, do you know of any

1

Mark Kimpson

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2 lead here, you don't know, and I said I'm -- I
3 don't know of lead being here. I didn't read the
4 form.

5 Q You didn't read the form at all?

6 A No.

7 Q So at the point at which you initialed
8 that you have no knowledge of lead based paint,
9 the part that also says that you're supposed to
10 give them a copy, see the thing on top, you're
11 supposed to give them a copy of a booklet, the
12 pamphlet, if you look in the middle, it says,
13 protect your family from lead in your home, you
14 didn't give the family any pamphlet?

15 A The broker had that.

16 Q But they didn't sign that, so they --

17 A They got this.

18 Q The form?

19 A No, the --

20 MR. STEWART: No, he said the broker
21 gave them the pamphlet.

22 Q They never acknowledged that they
23 received it. You saw the broker give a pamphlet
24 to --

25 A Who signed?

1 Mark Kimpson 73

2 MR. STEWART: Let him finish his
3 answer.

4 MR. FRANKEL: I didn't ask him that
5 question. It's not responsive.

6 Q Answer my questions. If your lawyer
7 wants to ask you questions, he can ask you and you
8 can respond.

9 Were the doors there originally?

10 A The dogs?

11 Q Doors.

12 A The doors, some was changed.

13 Q Some were the same?

14 A Right.

15 Q Those doors that were the same were
16 many years old?

17 A Yes.

18 Q When demolition was done, were the
19 ceilings touched?

20 A Ceilings were Sheetrocked five-eighth
21 all around.

22 Q Were the ceilings taken down before
23 they were Sheetrocked?

24 A Yes.

25 Q You don't know what was in the ceilings

1 Mark Kimpson

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2 when they were taken down?

3 A No.

4 Q Or behind the walls when they were
5 taken down?

6 A No.

7 Q You never had any tests performed at
8 all?

9 A No, sir.

10 Q When you learned of the problem with
11 Geronimo Mendez, how did you first find out about
12 that?

13 A His mother called me.

14 Q What did she tell you?

15 A That Geronimo has a high blood level of
16 lead.

17 Q Did she tell you whether anything had
18 been found by the doctors?

19 A She said he has a high blood level of
20 nine.

21 Q Did you ask any other questions?

22 A No.

23 Q At that point did you try to ascertain
24 what the impact of a high blood level in an infant
25 can be?

1

Mark Kimpson

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2 A Yes.

3 Q How did you do that?

4 A Called the lead company.

5 Q The lead company?

6 A Yes.

7 Q Was it an abatement company?

8 A Yes.

9 Q Did they tell you about what a high
10 lead level can do to an infant?

11 A They didn't tell me -- They told me
12 they would come out and inspect for the lead.

13 Q They inspected for the lead?

14 A Right.

15 Q They found lead all over the apartment?

16 A Right.

17 MR. STEWART: Objection to form.

18 Q Correct?

19 A Yes.

20 Q They gave you a form that showed you
21 where they found the lead?

22 A Yes.

23 Q It wasn't just by some door or one
24 area, one wall?

25 A It was basically around the mouldings

1

Mark Kimpson

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2 A Yes.

3 Q Do you still work with that agent?

4 A No.

5 Q What's the agent's name?

6 A Natalie Cosby.

7 Q Do you know where she worked?

8 A Well, she did work at Douglas.

9 Q Elliman?

10 A Yes.

11 Q Before you bought 490 Macdonough, did
12 you have an engineer do an examination, give you a
13 report?

14 A No, sir.

15 Q Did you have any inspectors do a
16 physical examination?

17 A No, sir.

18 Q When the Mendez family was living in
19 the basement, was there a tenant named
20 W-A-S-H-A-M, and her roommate Marie DeVallace,
21 living in the apartment above the Mendez's?

22 A Yes.

23 Q A woman named Eileen Richman lived
24 above them?

25 A Yes.

1 Mark Kimpson 78

2 Q That was at the same time?

3 A Yes, sir.

4 Q At that point Geronimo had been born
5 and those people were living in the building as
6 well?

7 A Yes.

8 Q Did they start to rent shortly after
9 the Mendez family?

10 A I don't recall if they rented before or
11 after. I know Eileen, she definitely rented
12 after, 'cause the top floor went in last.

13 Q When you purchased each of the
14 properties that we discussed before, did you have
15 an engineer and/or inspector investigate any of
16 those properties?

17 A No, sir.

18 Q You did it on your own?

19 A Yes, sir.

20 Q Did you ever ask any of the people you
21 were buying from, the landlords, whether there was
22 either lead paint or asbestos in the property?

23 A No, sir.

24 Q Did you in any of those buildings ever
25 test or have someone test for lead paint or lead

1 Mark Kimpson

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2 held off the record.)

3 Q When the Mendez family occupied the
4 apartment, were there times you saw Geronimo,
5 walking, crawling on the floor?

6 A Yes.

7 Q Did you ever see that she was nursing
8 Geronimo?

9 A Nursing?

10 Q As a mother, breast-feeding.

11 A Yes.

12 Q She'd be down on the floor with him
13 sometimes playing with him?

14 A No.

15 Q You never saw her on the floor?

16 A No.

17 Q Did you ever see him on a rug or a
18 carpet of some kind, or a mat?

19 A No, I seen him on the floor crawling.

20 Q At the time that he was there, other
21 than the lead, did you ever hear that he suffered
22 any injuries?

23 MR. STEWART: Objection to form.

24 A No.

25 Q They paid their rent monthly; is that

1

Mark Kimpson

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2 correct?

3 A Yes.

4 Q How much was that?

5 A Seventeen-fifty.

6 Q Did they pay by check or in cash?

7 A They paid Quick Pay.

8 Q I'll ask that you accept my

9 representation that Geronimo was born on August
10 1st, 2011.

11 When did you first see him after that,
12 if you know?

13 A That day.

14 Q You saw him when he was born?

15 A I was in the building cleaning the
16 hallway when she was having the baby. She had the
17 baby in the apartment.

18 Q Was there a midwife there?

19 A I guess so.

20 Q Did you see the baby after he was born?

21 A Yes.

22 Q Did there come a time where you learned
23 that a nine blood lead level in an infant is a
24 serious condition?

25 MR. STEWART: Objection to form.

1 Mark Kimpson 90

2 Q Roc?

3 A Yeah. R-O-C.

4 Q Was that a single person?

5 A Single female.

6 Q Any children?

7 A She has a child now.

8 Q How old?

9 A Couple of months.

10 Q Did you tell her that the apartment

11 previously had lead?

12 A Yes.

13 Q Did you show her the report?

14 A Yes, I gave a copy to her.

15 Q Did you sign a form similar to

16 Plaintiff's Exhibit 1?

17 A Yes.

18 Q Did you see the broker or did you give

19 her a pamphlet to read?

20 A I gave her a pamphlet.

21 Q Is that the first time you had a

22 pamphlet?

23 A Yes.

24 Q Before the lead testing company came,

25 did you test yourself for lead in the apartment?

1

Mark Kimpson

91

2 A Me?

3 Q Yes.

4 A No.

5 Q Did you have anyone else do it prior to
6 a company?

7 A Test for me?

8 Q Come in to test the apartment for lead.

9 A No.

10 Q Just the company?

11 A No.

12 Q Only the company?

13 A The lead company, right.

14 Q But before that you didn't do anything
15 to test it yourself?

16 MR. STEWART: Objection.

17 A No.

18 MR. STEWART: Asked and answered.

19 Q I'll ask you to look at Exhibit 6.

20 A I've never seen this letter.

21 MR. STEWART: He didn't ask a question.

22 Q Have you ever seen that letter before?

23 A No.

24 Q You never received a copy of it?

25 A No, sir.

1 Mark Kimpson 92

2 Q Do you know who this company is?

3 A No.

4 Q If you would look at Exhibit 7, please,
5 for identification.

6 A I never saw this one before either.

7 Q So you never saw a document from
8 Enviroprobe, Inc. for the apartment which the
9 Mendez's occupied?

10 A No.

11 Q Did you ever become aware that Joshua
12 Mendez had the apartment inspected for lead as
13 well also?

14 A No, he never told me.

15 By September --

16 MR. STEWART: Stop, stop, stop.

17 There's no question.

18 Q When you saw Geronimo Mendez crawling
19 on the floor in the apartment at times, were you
20 aware of the fact that he was teething?

21 A No.

22 Q You had no idea he was at the age of
23 teething?

24 MR. STEWART: Objection.

25 Q Did you speak to the mother about it?

Plaintiff Niki Hernandez-Adams—
The Following Pages are from the
Deposition Transcript taken on June 25, 2014.

1 NIKI HERNANDEZ-ADAMS

2 Q Okay. So, 490 Macdonough Street was that the
3 address that you lived at that was owned by the
4 Defendant, Mark Kimpson, correct?

5 A Yes.

6 Q When did you move in there?

7 A We moved in there in the end of May of 2011.

8 Q Who moved in there with you?

9 A My husband and two dogs and I was pregnant
10 with my son.

11 Q You were pregnant at the time that you moved
12 in?

13 A Yes.

14 Q What kind of dogs do you have?

15 A Two of them. We have a Beagle and we have a
16 Papillon.

17 Q How many months pregnant were you when you
18 moved in?

19 A Six months.

20 Q Did Mark Kimpson know that you were pregnant?

21 A Yes.

22 Q Did you tell him?

23 A Yes. We had a casual conversation about it
24 when I met him. It was very obvious. I had my baby
25 shower just within -- it was May 5th. It was pretty

1 NIKI HERNANDEZ-ADAMS

2 A No, it was very normal.

3 Q Where were you living when you became
4 pregnant?

5 A I was living at 915 Bedford.

6 Q Was that in Brooklyn?

7 A Yes.

8 Q When did you move to 915 Bedford in Brooklyn?

9 A Let's see, I'm not certain of the exact date.
10 We were there for several years.

11 Q Do you remember what years?

12 A I'm not positive. I think 2009. But I'm not
13 certain.

14 Q Did you go directly from 915 Bedford to 490
15 Macdonough?

16 A Yes.

17 Q What is your highest level of education?

18 A I have an MFA from the University of
19 Washington in Seattle.

20 Q What year did you receive that degree?

21 A Let's say 2005. I will have to check my
22 diploma, sorry.

23 Q That's okay, I understand. Where were you
24 born?

25 A Citrus Heights, California.

1 NIKI HERNANDEZ-ADAMS

2 Q Where did you go to elementary school?

3 A I went to many schools. I was a military
4 brat. We moved every two or three years. I don't
5 remember many of them. I can tell you where I
6 graduated from high school. I went to two different
7 high schools.

8 Q Where did you graduated high school?

9 A From E. E. Smith High School in Fayetteville,
10 North Carolina.

11 Q Do you remember what high school you attended
12 before that?

13 A I think that was Leavenworth, Kansas.

14 Q What about before that?

15 A I think that was Cristobal High School in
16 Panama.

17 Q How long did you live in Panama?

18 A Two years.

19 Q Had you ever lived outside of the continental
20 United States, other than that?

21 A No, that was the only time.

22 Q What is your current occupation?

23 A I'm a freelance costume designer.

24 Q Have you ever had any other occupations?

25 A Yes. I have had a multitude of odd jobs. I

1 NIKI HERNANDEZ-ADAMS

2 2013?

3 A We had sort of abstractly talked about when
4 we had a family we might one day move. But we didn't
5 have any plans to move, no.

6 Q Why did you move from Florida to Texas?

7 A We knew we had to leave our apartment in
8 Brooklyn. Since we had talked about moving as a
9 family, we knew that we also had my husband's family
10 that lived in Texas. We decided to try it out there.

11 Q When you moved into your parents' house in
12 Florida, was that intended to be temporary or were you
13 intending to stay in Florida?

14 A Temporary.

15 Q What is Geronimo's date of birth?

16 A August 1st, 2011.

17 Q Did you have any other children before
18 Geronimo was born?

19 A No.

20 Q Had you ever been pregnant before Geronimo
21 was born?

22 A No. It took a long time to conceive him.

23 Q Do you have any other children?

24 A We have Rose Marie Josephine Mendez.

25 Q What is her date of birth?

1 NIKI HERNANDEZ-ADAMS

2 test of his one year check-up?

3 A Just shortly after our appointment. I was
4 not expecting a call from the pediatrician.

5 Q What did the pediatrician say when she called
6 you?

7 A She just called and said I want to tell you
8 we discovered that your son has an elevated lead level
9 in his blood. It was very serious. We need to look
10 into having the place tested if you're not sure there
11 is lead there.

12 At that point I didn't have an idea really
13 even then about how serious this was. But that is what
14 she told me over the phone. We ended up calling her
15 back later and talking more.

16 Q What more did you talk about when you called
17 back later?

18 A We talked about what it really meant, having
19 an elevated lead level. That having anything over a 5.
20 I was told that he had a level of 9. Anything over a 5
21 is very dangerous.

22 She said it had to be reported to the State.
23 That there are some serious health problems. I don't
24 remember anything specific about that. That was enough
25 to kind of make me very afraid and start looking into

1 NIKI HERNANDEZ-ADAMS

2 Q Do you know how many apartments were in the
3 whole building?

4 A Three apartments.

5 Q How many floors was the building?

6 A Three floors.

7 Q Was it one apartment per floor?

8 A Yes.

9 Q Which floor did you live on, the bottom?

10 A The bottom floor.

11 Q Was that the basement or a first story?

12 A It was -- I guess it was the bottom floor, the
13 basement. It was not the basement. It was the bottom
14 level.

15 Q Did you have to go down a set of stairs to
16 get into the apartment?

17 A Down two steps to get to our level.

18 Q When you found out this apartment had lead
19 paint or was contaminated with lead, what conversations
20 did you have with the landlord?

21 A After we found out that it was contaminated I
22 had little conversation. I had virtually no contact
23 with him. My husband talked with him primarily.

24 Q When you moved into the apartment, did you
25 sign a lease?

Plaintiff Niki Hernandez-Adams—

The Following Pages are from the
Deposition Transcript taken on October 1, 2014.

1 Q. That's fine. Any questions that I ask are
2 about you. I'll, then, ask your husband, you know, what
3 conversations he had separately. So that's fine.

4 So you had a conversation with your husband
5 in which he said, "We're going to go to Natalie's office
6 to discuss this". Is that what you're telling me?

7 A. Yes.

8 Q. Okay. What did you and your husband discuss
9 about the apartment between the time that you went to
10 see it for the first time and that you went back to
11 Natalie's office to discuss it?

12 A. We decided that we liked the apartment. The
13 size of it was what we were looking for. And we were
14 reassured that there was -- it was new -- you know,
15 there was new work going on, that it was going to be in
16 good shape. Natalie had mentioned that she had a lot of
17 confidence in him as a landlord, and she said he did
18 good work. So we decided it was going to be a good
19 place for us to have our family.

20 Q. At the first initial meeting that you went to
21 the apartment, did you notify Mr. Kimpson that you were
22 pregnant?

23 A. I believe it was apparent. I think it was -- I
24 remember it coming up in the conversation, brief
25 conversation we had with him.

1 disclosure of lead.

2 Q. And it's your testimony that you received that
3 with the lease?

4 A. A copy of it, yes.

5 Q. When you went to sign the lease on or about
6 May 6th, 2011, who was present?

7 A. My husband was there. I was there. Mark
8 Kimpson was there; and Natalie, the realtor, was there.

9 Q. At that point was the apartment finished?

10 A. No.

11 Q. At that point was there somewhere for you to
12 sit down at a table at the apartment, or how did you --
13 how did the four of you meet?

14 A. We walked through the apartment to see the
15 condition of it and then ended up signing paperwork in
16 the kitchen area on the counters.

17 Q. What was the condition of the apartment on that
18 date?

19 A. It was close to being finished, but there was
20 still quite a lot of work to do.

21 Q. Do you recall what still had to be done?

22 A. I don't remember the entire list.

23 Q. Do you recall some of the things that still had
24 to be done?

25 A. Yes. It was filthy. There was still -- there

1 was still handles to put on doorknobs. There was still
2 some painting to be done, as I recall. And the cleaning
3 up the backyard hadn't been done. There was a fence
4 that still needed to be put up in the backyard.

5 Q. At the signing of the lease, did you speak
6 directly with Mr. Kimpson?

7 A. Yes.

8 Q. And did you speak directly with Natalie?

9 A. Yes.

10 Q. What conversations did you have with Natalie on
11 the date of signing the lease?

12 A. I don't remember the specifics of our
13 conversation.

14 Q. Do you remember the specifics of your
15 conversations with Mr. Kimpson on that date?

16 A. No.

17 Q. So when it came to signing the lease, who had
18 the paperwork for the lease to be signed?

19 A. I believe Natalie provided it.

20 Q. Do you recall what paperwork you signed on that
21 date other than this specific lease?

22 A. There was the sheet that I mentioned about
23 concerning the disclosure of lead. That's all I
24 remember. That's all I have.

25 Q. When you went through the apartment and you saw

1 the things that still needed to be done, were you given
2 any kind of time frame for when they would be completed?

3 A. Before we moved in.

4 Q. When you signed the lease on May 6th -- on or
5 about May 6th, 2011, did you set a move-in -- a specific
6 move-in date?

7 A. I don't recall.

8 Q. When you were actually physically signing the
9 lease, who was showing you where to sign? Did you flip
10 through it yourself and find the places? Did
11 Mr. Kimpson direct it to you? Did Natalie direct it to
12 you? Someone else?

13 A. I believe Natalie pointed out to all of us
14 where we should sign, and we had to take turns going
15 through the packets and signing ourselves.

16 Q. And when you say Natalie showed everyone where
17 to sign, does that include Mr. Kimpson, as well?

18 A. She pointed out the areas to each of us that we
19 needed to sign. I believe she did to Mark. I'm not
20 certain. I don't really recall the specifics.

21 Q. Now, you said on the date of signing the lease,
22 you were shown a lead paint disclosure form. Were you
23 directed to sign that, as well?

24 A. It was a part of the packet that we had to read
25 through and sign, yes.

1 Q. And did you read through and sign it?

2 A. Yes.

3 Q. Do you recall what that form said?

4 A. Not off the top of my head.

5 Q. Other than having it in the packet, was
6 anything explained to you about that form?

7 A. We didn't talk about it at all, no.

8 Q. So how did it come about that you signed that
9 form? Were you just pointed to sign here? Did they --
10 did Natalie tell you what that form was or something
11 else?

12 A. It was part of the packet that was out on the
13 counter. She had -- she pointed out that we should read
14 through and then sign.

15 Q. You say that there was a packet on the counter.
16 What did that packet consist of?

17 A. The documents that we signed with the lease and
18 that -- the form that I mentioned.

19 Q. Were there any other pamphlets, fliers, or
20 notices given to you on that date signing the -- that
21 you signed the lease?

22 A. Just those -- just those -- just that paperwork
23 I mentioned. No, no other materials.

24 Q. In between the time that you signed the lease
25 and the time that you moved into the apartment, did you

1 at that initial meeting, then the meeting at her office,
2 and then the signing of the lease?

3 A. Correct.

4 Q. You didn't personally have any conversations
5 with Natalie other than on those three occasions?

6 A. Correct.

7 Q. At any time prior to moving into the apartment
8 on Macdonough, were you given a pamphlet regarding lead
9 paint?

10 A. No.

11 Q. When was the first time you had a conversation
12 with Mr. Kimpson regarding lead paint in the apartment?

13 A. We never had a conversation concerning lead
14 paint.

15 THE WITNESS: Oh, I'm sorry.

16 Q. (BY MS. JOECKEL) When was the first time you
17 had a conversation with Mr. Kimpson regarding lead in
18 the apartment?

19 THE WITNESS: Thanks.

20 A. After I was notified by Geronimo's pediatrician
21 that he had elevated levels of lead in his blood.

22 Q. (BY MS. JOECKEL) Did you ever have a
23 conversation with Natalie regarding lead in the
24 apartment?

25 A. I did not.

Joshua Mendez-

The Following Pages are from the
Deposition Transcript taken on June 25, 2014.

1 JOSHUA MENDEZ

2 A I do not.

3 Q How old are you?

4 A Thirty-eight.

5 Q What is your date of birth?

6 A It's 9/6/75.

7 Q Do you know Sarah's date of birth?

8 A No, actually, I don't.

9 Q Do you know the month or year?

10 A I want to say February. But my parents will
11 destroy me if I'm wrong.

12 Q Do you know approximately how old Sarah is?

13 A No, I can't recall right now.

14 Q Do you know approximately how many years
15 younger than you she is?

16 A No.

17 Q What is your current occupation?

18 A I'm a beverage director.

19 Q Did you graduate from high school?

20 A Yes.

21 Q What high school?

22 A From R. L. Turner.

23 Q Where is that located?

24 A In Carrollton, Texas.

25 Q Where did you attend elementary school?

1 JOSHUA MENDEZ

2 A Stephen T. Foster.

3 Q Where is that located?

4 A In Dallas, Texas.

5 Q What about middle or junior high school?

6 A Carey Middle School in Dallas, Texas.

7 Q Is there any school between the middle school
8 and high school?

9 A No.

10 Q Did you go to college?

11 A Yes.

12 Q Where did you go to college?

13 A Southern Methodist University.

14 Q What year did you graduate that college?

15 A In 1999.

16 Q Did you get any kind of a graduate degree or
17 a master's degree?

18 A No.

19 Q Do you have any education after college?

20 A Yes.

21 Q What education do you have after college?

22 A The Darbson School of Music. Just south of
23 Hanover in Germany.

24 Q What type of degree did you get at the
25 Darbson School of Music?

1 JOSHUA MENDEZ

2 A An artist certificate, performance based.

3 Q When did you receive that certification?

4 A In 2002.

5 Q Did you go straight from Southern Methodist
6 to the Darbson School of Music?

7 A Yes.

8 Q Was that certificate program a two-year
9 certificate program or a three-year certificate
10 program?

11 A Nine months, roughly.

12 Q What did you do you between 1999 and 2002?

13 A I traveled a lot throughout Europe.

14 Q Were you employed at all?

15 A No.

16 Q What are your duties and responsibilities as
17 a food and beverage director?

18 A I run all the day-to-day operations of a
19 specific club in Downtown Dallas.

20 Q What is the name of that club?

21 A The Tower Club.

22 Q What does running the day-to-day
23 operations entail?

24 A Managing private events, sales, maintenance
25 of the club. Managing the a la carte services for the

1 JOSHUA MENDEZ

2 A We met the landlord when we viewed the
3 apartment. We told him that we were pregnant. We were
4 very happy and we loved his apartment. We liked the
5 layout. We liked the location. That was pretty much
6 it.

7 Q Did you sign a lease?

8 A Yes.

9 Q Do you have a copy of the lease?

10 A I do.

11 MS. JOECKEL: I'll ask that a copy of
12 the lease be provided.

13 MR. CANTOR: A copy of the lease was
14 provided. We'll provide another one.

15 Q Did you pay a security deposit when you moved
16 in?

17 A I don't remember.

18 Q When you moved in, was your wife already
19 pregnant?

20 A Yes.

21 Q How many months pregnant was she?

22 A Six months.

23 Q Did you have health insurance at that time?

24 A Yes.

25 Q Did she have separate health insurance at the

1 JOSHUA MENDEZ

2 A From what I know, the report states that
3 currently that that is where he is at in his
4 development.

5 Q Does the report state what the effects of
6 that will be in his future?

7 A I don't know.

8 Q Did you ever discuss with Dr. Gordon anything
9 outside of the report?

10 A No.

11 MS. JOECKEL: I have nothing further.

12 Thank you.

13 MR. FRANKEL: Briefly.

14 EXAMINATION BY STEVEN FRANKEL, ESQ.:

15 Q Mr. Mendez, you said there were three
16 apartments in the Macdonough building while you were
17 living there with your wife and son?

18 A Yes.

19 Q You were in the basement?

20 A Yes.

21 Q What family was on the second floor?

22 A Kim Washong and Marie DeValie. (phonetic)

23 Q On the third floor?

24 (Continued on the next page to include
25 the jurat and signature line.)

1 JOSHUA MENDEZ

2 A Eileen Richmond.

3 Q Each floor was a separate apartment, correct?

4 A Yes.

5 MR. FRANKEL: Nothing further. Thank
6 you.

7 (Whereupon, the examination of
8 this witness was concluded at 3:35 P.M.)

9

10

11 I have read the foregoing record of my testimony
12 taken at the time and place noted in the heading hereof
13 and I do hereby acknowledge it to be a true and correct
14 transcript of the same.

15

16

17 JOSHUA MENDEZ

18

19 Subscribed and sworn to
20 before me on this _____ day
21 of _____, 2014

22

23

24 NOTARY PUBLIC

25

Joshua Mendez-

The Following Pages are from the
Deposition Transcript taken on October 1, 2014.

1 A. No.

2 Q. Did Natalie give you a pamphlet about lead
3 paint in the home?

4 A. No.

5 Q. On May 6th, 2011, did you have any
6 conversations with Natalie regarding lead in the
7 apartment?

8 A. No.

9 Q. On May 6th, 2011, did you have any
10 conversations with Mr. Kimpson regarding lead in the
11 apartment?

12 A. No.

13 Q. At any time prior to May 6th, 2011, did you
14 have any conversations with Natalie regarding lead in
15 the apartment?

16 A. No.

17 Q. At any time prior to May 6th, 2011, did you
18 have any conversations with Mr. Kimpson about lead in
19 the apartment?

20 A. No.

21 Q. At any time prior to May 6th, 2011 or on
22 May 6th, 2011, did you ask any questions of Mr. Kimpson
23 or the broker about lead in the apartment?

24 A. No.

25 Q. On May 6, 2011, were you aware of the potential

1 dangers of lead in a residential area?

2 A. No.

3 Q. Had you ever heard of lead paint poisoning
4 prior to May 6th, 2011?

5 A. No.

6 Q. Even in a general sense?

7 A. Not that I can recall.

8 Q. When you signed the lease on May 6th, 2011, did
9 you make any payments on that date?

10 A. I do not remember.

11 Q. Now, you said earlier that there was a broker's
12 fee, but you didn't recall the exact amount; is that
13 correct?

14 A. That is correct.

15 Q. Do you remember if you paid that broker's fee?

16 A. I don't remember.

17 Q. After you signed the lease packet which
18 included the lead paint disclosure form, did you also
19 get a copy of what you had signed?

20 A. I don't recall.

21 Q. Did you read the lead paint disclosure form
22 before you signed it?

23 A. No.

24 Q. Did you receive any other material from the
25 broker on that date, including pamphlets, fliers,

1 notices, et cetera?

2 A. No.

3 Q. Did you receive any other material from
4 Mr. Kimpson on the date of signing the lease, including
5 pamphlets, fliers, notices, et cetera?

6 A. No.

7 Q. After the date that you signed the lease on May
8 6th, 2011, did you have any further conversations with
9 Natalie prior to moving into the premises?

10 A. No.

11 Q. Did you have any conversations with Mr. Kimpson
12 prior to moving into the premises after signing of the
13 lease?

14 A. I don't remember.

15 Q. Do you recall what date you moved into the
16 apartment?

17 A. I do not recall the exact date.

18 Q. Was it in May of 2011?

19 A. Yes.

20 Q. Do you recall if it was in the middle or the
21 end of May of 2011?

22 A. I don't recall.

23 Q. Prior to moving into the Macdonough apartment,
24 had you ever had to sign lead paint disclosure forms for
25 previous apartments or places of residence?